

Richard M. Garbarini (RG 5496)
Thomas J. FitzGerald (TF 2426)
GARBARINI FITZGERALD P.C.
420 Lexington Avenue
Suite 2743
New York, New York 10170
(212) 300-5358 Telephone
(888) 265-7054 Facsimile

Attorneys for Plaintiff YESH MUSIC LLC

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
YESH MUSIC LLC,

Plaintiff,

vs.

ESCAPE MEDIA GROUP INC.,

Defendant.
-----X

CV 12-0290

SUMMONS ISSUED

COMPLAINT FOR COPYRIGHT
INFRINGEMENT

JURY TRIAL DEMANDED

ECF CASE

WEINSTEIN, J.

POHORELSKY, M.J.

Plaintiff YESH MUSIC LLC ("YESH"), by its undersigned counsel, brings this action for permanent injunctive relief and damages based on copyright infringement and related claims pursuant to the Copyright Act and Copyright Revisions Act, 17 U.S.C. §101, et seq. ("the Copyright Act").

NATURE OF THE ACTION

1. This is a civil action that arises under the laws of the United States and is designed to redress a widespread, well-publicized, and uncompensated infringement of Plaintiff's exclusive rights to the copyrights in musical compositions by Defendant through its pirate website <www.grooveshark.com> (the "Grooveshark Website").

2. This action propounds claims for copyright infringement and seeks monetary and injunctive relief, as well as all other appropriate remedies to which YESH is entitled.

FILED
IN CLERK'S OFFICE
US DISTRICT COURT E.D.N.Y.

★ JAN 20 2012 ★

BROOKLYN OFFICE

3. As described in more detail below, Defendant ESCAPE MEDIA GROUP INC. (hereinafter "ESCAPE") owns and operates the Grooveshark Website through which ESCAPE willfully infringes, and contributes to the willful infringement by others, numerous copyrights, including YESH's copyrights identified in Exhibit A attached hereto (the "Copyrighted Compositions"), and by this reference incorporated into this Complaint.

4. The use of the Copyrighted Compositions is without authority and takes the form of reproducing, distributing and publicly performing the Copyrighted Compositions. As a result, YESH is entitled to actual and punitive damages or, in the alternative, statutory damages in the amount of \$150,000 per infringement, as available under the Copyright Act.

PARTIES

5. Plaintiff Yesh Music LLC is a New York limited liability company with its principal offices located in Flushing, New York. At all times relevant, YESH was, and continues to be, engaged in, among other things, the business of music publishing and otherwise commercially exploiting musical composition copyrights.

6. YESH is informed and believes, and on that basis avers, that Escape Media Group Inc. is a Delaware corporation with its principal place of business in Gainesville, Florida. ESCAPE is registered to do business in New York and maintains an office in the City and State of New York.

JURISDICTION AND VENUE

7. The jurisdiction of this Court is based upon 28 U.S.C. §§ 1331 and 1338(a) in that the controversy arises under the Copyright Act and Copyright Revision Act of 1976 (17 U.S.C. § 101 et seq.), which is within the exclusive jurisdiction of federal courts pursuant to 28 U.S.C. § 1338(a).

8. Personal jurisdiction is proper over ESCAPE because ESCAPE conducts continuous and systematic business in New York State and in this Judicial District and is thus subject to the jurisdiction of this Court pursuant to N.Y. C.P.L.R. § 301. ESCAPE is registered to do business in New York State and maintains an office at 254 West 31st Street, New York, New York. ESCAPE has entered into contracts and other arrangements with residents of New York, including YESH and/or YESH's agents, within the State of New York. ESCAPE is also subject to jurisdiction pursuant to C.P.L.R. § 302(a)(2) since it has committed numerous tortious acts within the State of New York, including encouraging its New York employees to upload infringing content to the Grooveshark Website as well as distributing and performing infringing copies of sound recordings to New York residents. ESCAPE also commits infringing acts outside of New York causing injury to YESH in New York, reasonably expects or should expect its infringing conduct to have consequences in New York and derives substantial revenue from interstate commerce.

ALLEGATIONS COMMON TO ALL CLAIMS FOR RELIEF

9. YESH is compensated primarily from the licensing musical compositions of and from the licensing fees generated from the reproduction, distribution and performances or other commercial exploitation of their copyrighted works. YESH also licenses its copyrighted works to clients including major movie studios and television networks.

10. YESH has complied with all of the laws pertinent to the Copyrighted Compositions as copyrighted works and, in particular, has applied for and received Certificates of Copyright Registration from the Register of Copyrights for the Copyrighted Compositions.

11. At all relevant times, the business model of defendant ESCAPE, through the Grooveshark Website, is to attract a substantial user base to the Website using the allure of a massive library of “free” sound recordings claiming the user will be able to listen to “any song in the world.”

12. The business model of ESCAPE is at its core a nefarious enterprise that first seeks to upload and distribute copyrighted works without permission, and when they are caught, attempt to convert the infringements into permitted uses by entering into post-infringement licenses.

13. The Grooveshark Website states:

“We strongly suggest that you contact us before filing a DMCA infringement claim. Grooveshark has an artists/label program to ensure that any owner of content will be compensated fairly for each time their content is played via Grooveshark. **To be clear, as long as your infringement claim complies with the terms of the DMCA we will honor it, however we would much rather pay you than remove your content.**

See Exhibit B, URL <http://www.grooveshark.com/dmca>, last viewed on January 20, 2012

(emphasis supplied).

14. ESCAPE is currently a defendant in similar litigation in Federal District Court, Southern District of New York titled *Arista Music et al. v. Escape Media Group Inc., et al.*, 11-CV-8407 (TPG).

15. ESCAPE has not only acknowledged the unauthorized and infringing nature of its business, it has embraced it. ESCAPE’s Executive Chairman readily admitted that ESCAPE “bet the company on the fact that it is easier to beg forgiveness than ask permission” from record labels to exploit their copyrighted sound recordings. See Exhibit C.

16. ESCAPE's Executive Chairman bragged that ESCAPE's meteoric growth is sustained "without paying a dime to any of the [record] labels." See Exhibit D.

17. ESCAPE profits directly from its unlawful activities by, among other things: (a) selling advertisements that are displayed in conjunction with the sound recordings it unlawfully copies and distributes; (b) selling monthly subscriptions to users with the promise of greater access to infringing music; and, (c) increasing venture capital investment and the value of its company to potential purchasers.

YESH Falls Into the GROOVESHARK Trap

18. In or about May, 2010, YESH discovered that the Copyrighted Compositions were listed for download on the Grooveshark Website.

19. YESH contacted ESCAPE on May 13, 2010 regarding the unauthorized use, reproduction and distribution by ESCAPE of the Copyrighted Compositions; ESCAPE ignored YESH's communication.

20. On or about December 16, 2010, YESH contacted ESCAPE again regarding the same unauthorized use, reproduction and distribution of YESH's Copyrighted Compositions.

21. ESCAPE responded, and provided to YESH a proposed agreement whereby YESH would permit the continued (and past) use of its copyrighted works on the Grooveshark Website.

22. YESH amended the proposed agreement and the payment structure, signed the agreement as amended (the "Agreement"), and returned it to ESCAPE by e-mail requesting it be returned executed.

23. ESCAPE ignored YESH's e-mail communication and the Agreement (as amended) was never returned.

24. On or about February 14, 2011, two months after ESCAPE was sent, and failed to return, the Agreement, YESH contacted ESCAPE and demanded the removal of all of YESH's copyrighted works from the Grooveshark Website.

25. ESCAPE finally responded that it had in its possession a fully executed Agreement but refused to provide an executed copy of the Agreement to Plaintiff.

26. At no time did ESCAPE remove the Copyrighted Compositions from the Grooveshark Website.

27. On or about June 30, 2011, YESH, by e-mail, again demanded ESCAPE remove its Copyrighted Compositions from the Grooveshark Website. ESCAPE, again, ignored YESH's demand.

28. On or about August 27, 2011, YESH, by and through its legal counsel, contacted ESCAPE demanding the immediate removal of all of YESH's copyrighted works from the Grooveshark Website.

29. ESCAPE responded on or about September 20, 2011 that "due to e-mail problems the company was having...[either] 1: We messed up and did not get a properly executed copy to you. 2: We got a copy emailed out and our server failed to deliver...", regardless of ESCAPE's contentions, ESCAPE never transmitted its acceptance of YESH's proposed amendments to the agreement sent to ESCAPE in or about December, 2010. ESCAPE stated that it "would have sent the fully executed agreement, or had our file secretary do it." See Exhibit E, September 20, 2011 e-mail from Marshall Custer.

30. Even though, to date, YESH has not received a copy of the executed Agreement, and denies the Agreement was ever fully executed; on or about November 9, 2011, YESH sent a

termination letter and takedown notice pursuant to the Digital Millennium Copyright Act, via certified mail, to ESCAPE (the "Termination/Takedown Letter").

31. The receipt of the Termination/Takedown Letter was acknowledged by ESCAPE on November 14, 2011, more than thirty (30) days before the renewal date contemplated by the Agreement.

32. The Termination/Takedown Letter identified and demanded the removal of all of YESH's seventy-nine (79) copyrighted works covered by YESH's valid and registered copyrights embodied in the certificates attached as Exhibit A.

33. The purported Agreement between YESH and ESCAPE was for a term of one (1) year terminating on or about December 21, 2011.

34. As of January 20, 2012, YESH's Copyrighted Compositions continue to remain available for download at the Grooveshark Website and have in fact been downloaded or otherwise disseminated by ESCAPE.

35. ESCAPE has acted willfully or knew or should have known that its actions constitute infringement.

36. YESH has suffered damages and/or is in imminent danger of suffering damages from ESCAPE's unlawful practices.

COUNT ONE COPYRIGHT INFRINGEMENT

37. Plaintiff here incorporates by this reference each and every preceding allegation of Paragraphs as if fully set forth.

38. Plaintiff has exclusive rights to, among other things, reproduce their Copyrighted Compositions, distribute copies thereof to the public, publicly perform their works, and authorize such reproduction, distribution, and public performance.

39. Defendant's conduct in copying, distributing and publicly performing Plaintiff's Copyrighted Compositions is in violation of United States copyright law and the exclusive rights held by Plaintiff.

40. The foregoing conduct of ESCAPE is willful and malicious and constitutes copyright infringement in violation of 17 U.S.C. §§ 106, 115 and 501.

41. As a result of Defendant's acts of copyright infringement and the foregoing allegations, Plaintiff has suffered damages in an amount to be determined at trial, and is entitled to actual, or in the alternative, statutory damages under the Copyright Act at its election.

COUNT TWO CONTRIBUTORY COPYRIGHT INFRINGEMENT

42. Plaintiff here incorporates by this reference each and every preceding allegation as if fully set forth.

43. An infringement of Plaintiff's copyrights in the Copyrighted Compositions occurs each and every time Defendant, without authority from the Plaintiff, causes a data file containing the Copyrighted Compositions to be downloaded from the Grooveshark.com website for use by Internet users.

44. Such infringement is intentionally induced, facilitated, encouraged, and made possible by Defendant.

45. Through the conduct averred in this Complaint, Defendant has engaged and continues to engage in the business of knowingly and systematically inducing, causing and materially contributing to the unauthorized reproduction, and/or public performance and/or public distribution of copies of the Copyrighted Compositions and thus to the infringement of Plaintiff's copyrights in and to the Copyrighted Compositions.

46. The foregoing acts of infringement by Defendant have been willful, intentional and purposeful, in disregard of, and in indifference to, Plaintiff's rights.

47. Defendant's conduct, as averred in this Complaint, constitutes contributory infringement of Plaintiff's copyrights in violation of Sections 106, 115 and 501 of the Copyright Act, 17 U.S.C. §§ 106, 115 and 501.

48. As a result, Plaintiff is entitled to statutory damages, pursuant to 17 U.S.C. § 504(c), in the amount of \$150,000 with respect to each infringement as available under the law.

49. Plaintiff is further entitled to its attorneys' fees and full costs pursuant to 17 U.S.C. § 505.

COUNT THREE PERMANENT INJUNCTION

50. Plaintiff incorporates by this reference each and every preceeding allegation as if fully set forth.

51. Defendant's conduct, as averred in this Complaint, is causing and, unless enjoined and restrained by this Court, will continue to cause Plaintiff great and irreparable injury that cannot fully be compensated or measured in money.

52. Plaintiff has no adequate remedy at law.

53. Pursuant to 17 U.S.C. § 502, Plaintiff is entitled to a permanent injunction prohibiting further infringements of the Copyrighted Compositions by Defendant.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendant as follows:

A. As to Count One, that pursuant to 17 U.S.C. § 504(b), at the election of Plaintiff, the Court order that (i) Defendants be required to pay Plaintiff such actual

damages as they may have sustained as a consequence of Defendant's infringement, and (ii) Defendant accounts for all gains, profits, and advantages derived by Defendant, directly or indirectly, for their unauthorized use of the Copyrighted Compositions;

- B. As to Count One, that, pursuant to 17 U.S. C. § 504(c)(1), at the election of Plaintiff, the Court order that Defendants be required to pay an award of statutory damages in a sum of not less than \$30,000 per Copyrighted Composition infringed;
- C. As to Count One, that the Court find that Defendant's conduct was committed willfully, and that pursuant to 17 U.S. C. § 504(c)(2), at the election of Plaintiff, the Court order that Defendant be required to pay an award of increased statutory damages in a sum of not less than \$150,000 per Copyrighted Composition infringed;
- D. As to Count Two, that, pursuant to 17 U.S. C. § 504(c)(1), at the election of Plaintiff, the Court order that Defendants be required to pay an award of statutory damages in a sum of not less than \$30,000 per Copyrighted Composition infringed;
- E. As to Count Two, that the Court find that Defendant's conduct was committed willfully, and that pursuant to 17 U.S. C. § 504(c)(2), at the election of Plaintiff, the Court order that Defendant be required to pay an award of increased statutory damages in a sum of not less than \$150,000 per Copyrighted Composition infringed;

- F. As to Counts One, Two and Three, that pursuant to 17 U.S.C. § 502(a), the Court enjoin Defendant, its agents, servants, employees, and all parties in privity with it, both during the pendency of this action and permanently, from infringing the copyrights of the Plaintiff in any manner, including but not limited to the reproduction, digitizing, copying, performance, publishing, vending, distributing, selling, promotion or advertising of any of the Copyrighted Compositions on grooveshark.com or any of the Defendant's other websites;
- G. As to Counts One and Two, that the Court declare that Defendant's actions as alleged herein are unlawful and specifically that Defendant infringed and continues to infringe the copyrights of the Plaintiff in violation of the Copyright Act;
- H. As to all Counts, that pursuant to 17 U.S.C. § 505, the Court order that Defendants pay Plaintiff's full costs, legal expenses, and reasonable attorneys fees incurred in this action;
- I. For an accounting, the imposition of a constructive trust, restitution of Defendant's unlawful proceeds, and damages according to proof;
- J. For punitive and exemplary damages and prejudgment interest according to law; and,
- K. As to all Counts, that the Court grant Plaintiff such other legal and equitable relief as the Court finds just and proper.

JURY DEMAND

Plaintiff hereby demands a trial by jury of all issues so triable.

Dated: January 20, 2012
New York, New York

GARBARINI FITZGERALD P.C.

By: 

Richard M. Garbarini (RG 5496)

rgarbarini@garbarinilaw.com

Thomas J. FitzGerald (TF 2426)

tfitzgerald@garbarinilaw.com

420 Lexington Avenue

Suite 2743

New York, New York 10170

Telephone: 212.300.5358

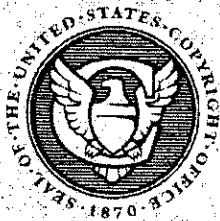
Facsimile: 888.265.7054

Attorneys for Plaintiff Yesh Music LLC

EXHIBIT A

(Plaintiff's Certificates of Registration)

Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Marybeth Peters

Register of Copyrights, United States of America

Form PA
For a Work of Performing Arts
UNITED STATES COPYRIGHT OFFICE

PA 1-306-744



OFFICE OF REGISTRATION

Month 12 Day 16 Year 05

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

- 1** TITLE OF THIS WORK ▼ 1. War on Christmas - American Dollar 2. Glow - American Dollar
3. Cambian - American Dollar 4. Sonnabundance - American Dollar 5. Long March - American Dollar
PREVIOUS OR ALTERNATIVE TITLES ▼ 6. Separate But Equal - American Dollar 7. Peterson - American Dollar 8. Thompson - American Dollar
9. Twelve Days Awake - American Dollar 10. Everyone Gets ~~Chill~~ - American Dollar
NATURE OF THIS WORK ▼ See instructions American Dollar Debut Album * 11. Secret War - American Dollar

Musical Composition of 11 tracks. and each individual track for copyright.

2 a NAME OF AUTHOR ▼ Richard Cupolo DATES OF BIRTH AND DEATH
Year Born ▼ Year Died ▼
05/17/1984

Was this contribution to the work a "work made for hire"? ☐ Yes ☒ No

AUTHOR'S NATIONALITY OR DOMICILE
Name of Country USA
OR Citizen of USA
Domiciled in _____

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK
Anonymous? ☐ Yes ☒ No
Pseudonymous? ☐ Yes ☒ No

NATURE OF AUTHORSHIP Briefly describe nature of material created by this author in which copyright is claimed. ▼
Co-author of music

NOTE

Under the law, the "author" of a "work made for hire" is generally the employer, not the employee (see instructions). For any part of this work that was "made for hire" check "Yes" in the space provided, give the employer (or other person for whom the work was prepared) as "Author" of that part, and leave the space for dates of birth and death blank.

b NAME OF AUTHOR ▼ John Emanuele DATES OF BIRTH AND DEATH
Year Born ▼ Year Died ▼
1984

Was this contribution to the work a "work made for hire"? ☐ Yes ☒ No

AUTHOR'S NATIONALITY OR DOMICILE
Name of Country USA
OR Citizen of USA
Domiciled in _____

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK
Anonymous? ☐ Yes ☒ No
Pseudonymous? ☐ Yes ☒ No

NATURE OF AUTHORSHIP Briefly describe nature of material created by this author in which copyright is claimed. ▼
Co-author of music

c NAME OF AUTHOR ▼ DATES OF BIRTH AND DEATH
Year Born ▼ Year Died ▼

Was this contribution to the work a "work made for hire"? ☐ Yes ☒ No

AUTHOR'S NATIONALITY OR DOMICILE
Name of Country _____
OR Citizen of _____
Domiciled in _____

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK
Anonymous? ☐ Yes ☒ No
Pseudonymous? ☐ Yes ☒ No

NATURE OF AUTHORSHIP Briefly describe nature of material created by this author in which copyright is claimed. ▼

3 a YEAR IN WHICH CREATION OF THIS WORK WAS COMPLETED 2005 b DATE AND NATION OF FIRST PUBLICATION OF THIS PARTICULAR WORK
This information must be given in all cases. Complete this information ONLY if this work has been published. Month 12 Day 12 Year 2005
Nation USA

4 COPYRIGHT CLAIMANT(S) Name and address must be given even if the claimant is the same as the author given in space 2. ▼
Richard Cupolo 15 Middlebn RJ Garden City, NY 11530
John Emanuele 73-04 198th st Flushing, NY 11366

TRANSFER If the claimant(s) named here in space 4 is (are) different from the author(s) named in space 2, give a brief statement of how the claimant(s) obtained ownership of the copyright. ▼

APPLICATION RECEIVED
DEC 16 2005
ONE DEPOSIT RECEIVED
DEC 16 2005
TWO DEPOSITS RECEIVED
FUNDS RECEIVED

MORE ON BACK ► • Complete all applicable spaces (numbers 5-6) on the reverse side of this page.
• See detailed instructions. • Sign the form at line 8.

DO NOT WRITE HERE
Page 1 of 2 pages

*Collection title added by C.O. from copy.

EXAMINED BY

FORM PA

CHECKED BY

☐ CORRESPONDENCE
Yes

FOR
COPYRIGHT
OFFICE
USE
ONLY

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

PREVIOUS REGISTRATION Has registration for this work, or for an earlier version of this work, already been made in the Copyright Office?

☒ Yes ☐ No If your answer is "Yes," why is another registration being sought? (Check appropriate box.) ▼ If your answer is No, do not check box A, B, or C.

a. ☐ This is the first published edition of a work previously registered in unpublished form.

b. ☐ This is the first application submitted by this author as copyright claimant.

c. ☐ This is a changed version of the work, as shown by space 6 on this application.

If your answer is "Yes," give Previous Registration Number ▼

Year of Registration ▼

5

DERIVATIVE WORK OR COMPILATION Complete both space 6a and 6b for a derivative work; complete only 6b for a compilation.
Preexisting Material Identify any preexisting work or works that this work is based on or incorporates. ▼

a

6

See instructions
before completing
this space.

Material Added to This Work Give a brief, general statement of the material that has been added to this work and in which copyright is claimed. ▼

b

DEPOSIT ACCOUNT If the registration fee is to be charged to a Deposit Account established in the Copyright Office, give name and number of Account.
Name ▼ Account Number ▼

a

7

CORRESPONDENCE Give name and address to which correspondence about this application should be sent. Name/Address/Apt/City/State/ZIP ▼

b

Richard Cupolo
15 Middleton Rd
Garden City, NY 11530
Area code and daytime telephone number (516) 253-1826
Email Stratowe@aol.com

Fax number ()

CERTIFICATION I, the undersigned, hereby certify that I am the

Check only one ► ☒ author
☐ other copyright claimant
☐ owner of exclusive right(s)
☐ authorized agent of

Name of author or other copyright claimant, or owner of exclusive right(s) ▲

of the work identified in this application and that the statements made by me in this application are correct to the best of my knowledge.

8

Typed or printed name and date ▼ If this application gives a date of publication in space 3, do not sign and submit it before that date.

Richard Cupolo

Date 12/13/05

Handwritten signature (X) ▼

Certificate
will be
mailed in
window
envelope
to this
address:

Name ▼ Richard Cupolo
Number/Street/Apt ▼ 15 Middleton Rd.
City/State/ZIP ▼ Garden City, NY 11530

YOU MUST
• Complete all necessary spaces
• Sign your application in space 8
**SEND ALL ELEMENTS
IN THE SAME PACKAGE**
1. Application form
2. Nonrefundable filing fee in check or money
order payable to Register of Copyrights
3. Deposit material
MAIL TO:
Library of Congress
Copyright Office
101 Independence Avenue, S.E.
Washington, D.C. 20540-0000

9

Post any postpaid
change. For correct
mail, check the
Copyright Office
website at
www.copyright.gov
write the Copyright
Office, or call
(800) 770-0700.

17 U.S.C. § 506(e): Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 406, or in any written statement filed in connection with the application, shall be fined not more than \$2,500.

Rev. June 2002—20,000 Web Rec. June 2002 © Printed on recycled paper

U.S. Government Printing Office: 2000-481-112/20,021

Certificate of Registration



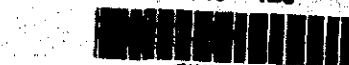
This Certificate issued under the seal of the Copyright Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Margbeth Peters

Register of Copyrights, United States of America

Form PA
For a Work of Performing Arts
UNITED STATES COPYRIGHT OFFICE

REC PA 1-346-426



EFFECTIVE DATE OF FILING

11 / 1 / 06
Month Day Year

DATE CONTINUATION SHEET

1 TITLE OF THIS WORK *The American Dollar (Artist)*
The Technicolour Sleep - See Attached Tracklist
PREVIOUS OR ALTERNATIVE TITLES

NATURE OF THIS WORK See instructions

Music, Instrumental

2 a NAME OF AUTHOR *Richard Cupolo* DATES OF BIRTH AND DEATH
Year Born *3/17/84* Year Died
Was this contribution to the work a "work made for hire"? ☐ Yes ☒ No
AUTHOR'S NATIONALITY OR DOMICILE Name of Country *USA*
OR Citizen of *USA* Domiciled in
WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK Anonymously? ☐ Yes ☒ No Pseudonymously? ☐ Yes ☒ No

NATURE OF AUTHORSHIP Briefly describe the nature of material created by this author in which copyright is claimed.

Music

b NAME OF AUTHOR *John Emanuele* DATES OF BIRTH AND DEATH
Year Born *2/25/84* Year Died
Was this contribution to the work a "work made for hire"? ☐ Yes ☒ No
AUTHOR'S NATIONALITY OR DOMICILE Name of Country *USA*
OR Citizen of *USA* Domiciled in
WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK Anonymously? ☐ Yes ☒ No Pseudonymously? ☐ Yes ☒ No

NATURE OF AUTHORSHIP Briefly describe the nature of material created by this author in which copyright is claimed.

Music

c NAME OF AUTHOR DATES OF BIRTH AND DEATH
Year Born Year Died
Was this contribution to the work a "work made for hire"? ☐ Yes ☒ No
AUTHOR'S NATIONALITY OR DOMICILE Name of Country
OR Citizen of Domiciled in
WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK Anonymously? ☐ Yes ☒ No Pseudonymously? ☐ Yes ☒ No

NATURE OF AUTHORSHIP Briefly describe the nature of material created by this author in which copyright is claimed.

3 a YEAR IN WHICH CREATION OF THIS WORK WAS COMPLETED *2006* **b** DATE AND NATION OF FIRST PUBLICATION OF THIS PARTICULAR WORK
Month *8* Day *17* Year *2006* Nation

4 COPYRIGHT CLAIMANT(S) Name and address must be given even if the claimant is the same as the author given in space 2.
Richard Cupolo
15 Middleton Rd
Garden City, NY
John Emanuele
75-10 197th St.
Flushing NY 11366
TRANSFER If the claimant(s) named here in space 4 is (are) different from the author(s) named in space 2, give a brief statement of how the claimant(s) obtained ownership of the copyright.

APPLICATION RECEIVED
ONE DEPOSIT RECEIVED
TWO DEPOSITS RECEIVED
FUNDS RECEIVED

MORE ON BACK - Complete all applicable spaces (numbers 5-8) on the reverse side of this page.
- See detailed instructions. - Sign the form at line 8.

DO NOT WRITE HERE
Page 1 of 3 pages

*Prepared by C.O. from informal continuation sheet.

EXAMINED BY

FORM PA

CHECKED BY

CORRESPONDENCE

Yes

FOR
COPYRIGHT
OFFICE
USE
ONLY

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

PREVIOUS REGISTRATION Has registration for this work, or for an earlier version of this work, already been made in the Copyright Office?

☐ Yes ☒ No If your answer is "Yes," why is another registration being sought? (Check appropriate box.) If your answer is No, do not check box A, B, or C.

a. ☐ This is the first published edition of a work previously registered in unpublished form.

b. ☐ This is the first application submitted by this author as copyright claimant.

c. ☐ This is a changed version of the work, as shown by space 6 on this application.

If your answer is "Yes," give: Previous Registration Number

Year of Registration

DERIVATIVE WORK OR COMPILATION Complete both space 6a and 6b for a derivative work; complete only 6b for a compilation.
Preexisting Material Identify any preexisting work or works that this work is based on or incorporates.

Material Added to This Work Give a brief, general statement of the material that has been added to this work and in which copyright is claimed.

DEPOSIT ACCOUNT If the registration fee is to be charged to a Deposit Account established in the Copyright Office, give name and number of Account.
Name Account Number

CORRESPONDENCE Give name and address to which correspondence about this application should be sent. Name/Address/Apt./City/State/Zip

Richard Cupolo - 15 Middleton Rd
Garden City, NY 11530

Area code and daytime telephone number

516-253-1826

Fax number

E-mail

CERTIFICATION I, the undersigned, hereby certify that I am the

Check only one

☒ author

☐ other copyright claimant

☐ owner of exclusive right(s)

☐ authorized agent of

Name of author or other copyright claimant or owner of exclusive right(s)
of the work identified in this application and that the statements made by me in this application are correct to the best of my knowledge.

Typed or printed name and date If this application gives a date of publication in space 3, do not sign and submit it before that date.

Richard Cupolo

Date 10/12/06

Handwritten signature (X)

Certificate
will be
mailed in
window
envelope
to this
address:

Name

Richard Cupolo

Number/Street/Apt.

15 Middleton Rd.

City/State/Zip

Garden City, NY 11530

Complete all necessary space.
Sign your application in space 6.

1. Application fee
2. Recordable filing fee in check or money
order payable to Registrar of Copyrights
3. Deposit material

Library of Congress
Copyright Office
101 Independence Avenue SE
Washington, DC 20540-0000

17 USC §505(c): Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 408, or in any written statement filed in connection with the application, shall be fined not more than \$2,500.

CONTINUATION OF (Check which):

☒ Space 1

☐ Space 4

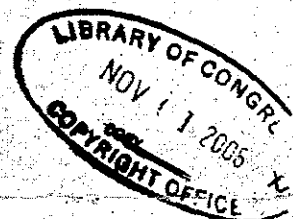
☐ Space 6

C*

Continuation
of other
Spaces

Title of Album: The Technicolour Sleep

- 1) Rudiments of a Spiritual Life
- 2) The Technicolour Sleep
- 3) Signaling Through The Flames
- 4) Tonight, Let's All Make Love In London
- 5) Daytrip
- 6) The Swamp
- 7) Supernova Landslide
- 8) Time
- 9) Summer of War
- 10) DEA
- 11) Raided by Waves
- 12) Palestine



Certificate
will be
mailed in
window
envelope
to this
address:

Name ▼
Number/Street/Apt ▼
City/State/ZIP ▼

- Complete all necessary spaces
- Sign your application

1. Application form
2. Nonrefundable fee in check or money order payable to Register of Copyrights
3. Deposit Material

Library of Congress, Copyright Office
101 Independence Avenue SE
Washington, DC 20540-6000

D

There are subject to change.
For current fees, check the Copyright Office website at www.copyright.gov, with the Copyright Office, or call (202) 707-6000.

Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Marybeth Peters

Register of Copyrights, United States of America

Registration Number
PAu 3-452-712

Effective date of
registration:
April 25, 2008

Title

Title of Work: A Memory Stream

Nature of Work: Instrumental Music

Completion/ Publication

Year of Completion: 2008

Author

■ Author: John Keith Emanuele

Author Created: Co-Writer and Co-Owner of Copyrights

Work made for hire: No

Citizen of: United States

Year Born: 1984

Anonymous: No

Pseudonymous: No

■ Author: Richard Thomas Cupolo

Author Created: Co-Writer and Co-Owner of Copyrights

Work made for hire: No

Citizen of: United States

Year Born: 1984

Anonymous: No

Pseudonymous: No

Copyright claimant

Copyright Claimant: John K. Emanuele

75-10 197 Street, 2nd Floor, Flushing, NY, 11366

Limitation of copyright claim

Previously registered: No

Certification

Name: John K. Emanuele

Date: March 5, 2008

Copyright Office notes: Regarding author information: Deposit contains music.

Certificate of Registration



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Maria A. Pallante

Register of Copyrights, United States of America

Registration Number
SR 677-648

**Effective date of
registration:**

May 16, 2011

Title

Title of Work: Ambient One

Contents Titles: Starscapes (Ambient)

Bump (Ambient)

Lights Dim (Ambient)

DEA (Ambient)

We're Hitting Everything (Ambient)

Rudiments of A Spiritual Life (Ambient)

Signaling Through The Flames (Ambient)

The Slow Wait (Part One) (Ambient)

The Slow Wait (Part Two) (Ambient)

Anything You Synthesize (Ambient)

Time (Ambient)

Transcendence (Ambient)

Signaling Through The Flames (Film Edit)

Time (Film Edit)

Intro

Chase

Completion/Publication

Year of Completion: 2009

Date of 1st Publication: August 15, 2009

Nation of 1st Publication: United States

Author

■ **Author:** Richard Thomas Cupolo

Author Created: sound recording, performance, production, music

Citizen of: United States

Domiciled in: United States

Year Born: 1984

■ **Author:** John Keith Emanuele

Author Created: sound recording, performance, production, music

Citizen of: United States

Domiciled in: United States

Year Born: 1984

Copyright claimant

Copyright Claimant: Richard Thomas Cupolo

15 middleton road, 15 middleton road, Garden City, NY, 11530, United States

Copyright Claimant: John Keith Emanuele

75-10 197 Street, 2nd floor, Flushing, NY, 11366, United States

Rights and Permissions

Organization Name: Yesh Music

Name: John Keith Emanuele

Email: americandollarband@yahoo.com

Telephone: 646-552-3011

Address: 75-10 197 Street

2nd floor

flushing, NY 11366 United States

Certification

Name: John Emanuele

Date: May 16, 2011

Correspondence: Yes



0000SR0000676480201

Certificate of Registration



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Maria A. Pallante

Register of Copyrights, United States of America

Registration Number
SR 677-194

**Effective date of
registration:**

January 25, 2010

Title

Title of Work: Atlas

Contents Titles: A Few Words

Age of Wonder

Fade In Out

Shadows

Oil and Water

Circuits

Red Letter

Clones

Equinox

Second Sight

Frontier Melt

Flood

Escapist

Completion/Publication

Year of Completion: 2009

Date of 1st Publication: January 1, 2010

Nation of 1st Publication: United States

Author

Author: John Keith Emanuele

Author Created: sound recording, performance, production, music

Citizen of: United States

Domiciled in: United States

Year Born: 1984

■ **Author:** Richard Thomas Cupolo

Author Created: sound recording, performance, production, music

Citizen of: United States

Domiciled in: United States

Year Born: 1984

Copyright claimant

Copyright Claimant: John Keith Emanuele

75-10 197 Street, 2nd Floor, Flushing, NY, 11366

Copyright Claimant: Richard Thomas Cupolo

15 Middleton Road, Garden City, NY, 11530, United States

Rights and Permissions

Organization Name: Yesh Music

Name: John Keith Emanuele

Email: americandollarband@yahoo.com

Telephone: 646-552-3011

Address: 75-10 197 Street

2nd Floor

Flushing, NY 11366 United States

Certification

Name: John K. Emanuele

Date: January 8, 2010

Correspondence: Yes



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Certificate of Registration



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Maria A. Pallante

Register of Copyrights, United States of America

Registration Number
SR 677-647

Effective date of
registration:
May 16, 2011

Title

Title of Work: From The Inland Sea
Contents Titles: Landing
Schipol
Where We Are

Completion/Publication

Year of Completion: 2009
Date of 1st Publication: December 15, 2009 Nation of 1st Publication: United States

Author

- Author: John Keith Emanuele
Author Created: sound recording, performance, production, music
Citizen of: United States Domiciled in: United States
Year Born: 1984
- Author: Richard Thomas Cupolo
Author Created: sound recording, performance, production, music
Citizen of: United States Domiciled in: United States
Year Born: 1984

Copyright claimant

Copyright Claimant: John Keith Emanuele
75-10 197 Street, 2nd Floor, Flushing, NY, 11366
Copyright Claimant: Richard Thomas Cupolo, dba yesh music
15 middleton road, 15 middleton road, Garden City, NY, 11530, United States

Rights and Permissions

Organization Name: Yesh Music

Name: John Keith Emanuele

Email: johnemanuele@gmail.com

Telephone: 646-552-3011

Address: 75-10 197 Street

2nd floor

Flushing, NY 11366 United States

Certification

Name: John Emanuele

Date: May 16, 2011

Correspondence: Yes



Certificate of Registration



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Maria A. Pallante

Register of Copyrights, United States of America

Registration Number

SR 679-263

Effective date of
registration:

May 16, 2011

Title

Title of Work: Ambient Two

Contents Titles: A Few Words (Ambient)

Age of Wonder (Ambient)

Fade In Out (Ambient)

Shadows (Ambient)

Oil and Water (Ambient)

Circuits (Ambient)

Red Letter (Ambient)

Equinox (Ambient)

Second Sight (Ambient)

Flood (Ambient)

Near East (Ambient)

Landing (Ambient)

Where We Are (Ambient)

Par Avion

Completion/Publication

Year of Completion: 2010

Date of 1st Publication: August 15, 2010

Nation of 1st Publication: United States

Author

Author: John Keith Emanuele

Author Created: sound recording, performance, production, music

Citizen of: United States

Domiciled in: United States

Year Born: 1984

Author: Richard Thomas Cupolo
Author Created: sound recording, performance, production, music

Citizen of: United States

Domiciled in: United States

Year Born: 1984

Copyright claimant

Copyright Claimant: John Keith Emanuele

75-10 197 Street, 2nd floor, Flushing, NY, 11366, United States

Copyright Claimant: Richard Thomas Cupolo

15 middleton road, Garden City, NY, 11530, United States

Rights and Permissions

Organization Name: Yesh Music

Name: John Keith Emanuele

Email: johnemanuele@gmail.com

Telephone: 646-552-3011

Address: 75-10 197 Street

2nd floor

Flushing, NY 11366 United States

Certification

Name: John Emanuele

Date: May 16, 2011

0000SR0000672630201



EXHIBIT B

(Groovesark Website Printout)

DMCA Takedown Policy

DMCA Takedown Policy

It is our policy to honor all takedown requests that comply with the requirements of the Digital Millennium Copyright Act (DMCA) and other applicable intellectual property laws.

We strongly suggest that you contact us before filing a DMCA infringement claim. Grooves shark has an artists/label program to ensure that any owner of content will be compensated fairly for each time their content is played via Grooves shark. **To be clear, as long as your infringement claim complies with the terms of the DMCA we will honor it, however we would much rather pay you than remove your content.**

Also, before proceeding please **understand that should you knowingly materially misrepresent that a product or activity is infringing your copyrights, you may be held liable for damages.** In a recent case, a company was held liable for over \$100,000 for seeking removal of content that was protected by the fair use doctrine. The details can be found at http://www.onlinepolicy.org/action/legpolicy/opg_v_diebold/.

How to File an Infringement Complaint

To file a claim of infringement please provide us with a document via fax, regular mail, or email that includes the following items:

1. Identification of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works are covered by a single notification, a representative list of all such works.
2. Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit the service provider to locate the material. **Please provide us with at minimum a URL to each work that is claimed to be infringing.** Note: Providing us with search terms such as "Artist A" or "Song B" will not be considered reasonably sufficient for us to locate the alleged infringing work. There may be 100 versions of "Song B", and you may only have the rights to request a takedown for one of those versions.
3. Information reasonably sufficient to permit the service provider to contact the complaining party, such as an address, telephone number, and, if available, an electronic mail address at which the complaining party may be contacted.
4. Statement that the complaining party has a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law.
5. A statement that the information in the notification is accurate and, under penalty of perjury, that the complaining party is authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.
6. A physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

For any complaints that reference more than 10 allegedly infringing works, please create a spreadsheet (.xls) or CSV file (.csv) that contains items 1 and 2 from above for each allegedly infringing piece of work. You may either attach it to an email or send it on a compact disc via mail.

Please note that the notification sent to us will be forwarded to the user who provided the allegedly infringing content.

Physical Address:
DMCA Complaints
Escape Media Group
201 SE 2nd Ave Ste 209 Gainesville, FL 32601
Fax Number: (727)231-8312
Email Address: [abuse \(at\) grooves shark \(dot\) com](mailto:abuse(at)grooves shark(dot)com)

Alternatively, you can use our Copyright Complaint Form to submit an infringement complaint to the our designated copyright agent.

Legal Overview

Terms of Service

Privacy Policy

DMCA Takedown Policy

DMCA Complaint Form



I can honestly say it's even better than Pandora. The service is Grooves shark, and from what experienced they have as much on their library as the other



Counter Notification

The provider of an affected work may file a counter notification pursuant to sections 512(g)(2) and (3) of the DMCA. When we receive a counter notification, we may reinstate the material in question.

To file a counter notification, please provide us with a document via fax, regular mail, or email that includes the following items:

1. A physical or electronic signature of the subscriber.
2. Identification of the material that has been removed or to which access has been disabled and the location at which the material appeared before it was removed or access to it was disabled.
3. A statement under penalty of perjury that the subscriber has a good faith belief that the material was removed or disabled as a result of mistake or misidentification of the material to be removed or disabled.
4. The subscriber's name, address, and telephone number, and a statement that the subscriber consents to the jurisdiction of Federal District Court for the judicial district in which the address is located, or if the subscriber's address is outside of the United States, for any judicial district in which the service provider may be found, and that the subscriber will accept service of process from the person who provided notification under subsection (c)(1)(C) or an agent of such person.

Physical Address:

DMCA Complaints

Escape Media Group

201 SE 2nd Ave Ste 209 Gainesville, FL 32601

Fax Number: (727) 231-8312

Email Address: abuse (at) grooveshark (dot) com

Once we receive your counter notification, we will forward it to the party who submitted the original claim of infringement. Please understand that your personal information will be included.

You consent to having your information forwarded in this way by submitting a counter notification.

After we send out the counter notification, the original claimant must notify us within 10 days that they have filed an action seeking a court order to restrain you from engaging in infringing activity relating to the material on Grooveshark. If we receive such notification we will be unable to restore the material. If we do not receive such notification, we may reinstate the material.

PLEASE NOTE: THE INFORMATION WE PRESENT HERE IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT LEGAL ADVICE

Happiness

Find any song in the world and listen to it instantly.

Discovery

Get introduced to new music and new friends.

Freedom

Add your tunes to Grooveshark and access them from anywhere.

[Help](#)

[Blog](#)

[Artists](#)

[Careers](#)

[Contact](#)

[Privacy](#)

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EXHIBIT C

(April 27, 2010 S. Simantob e-mail)

From: Drew Lipsher [Lipsher@greycroftpartners.com]
Sent: Tuesday, April 27, 2010 12:18 AM
To: Sina Simantob
Subject: RE: Long time no talk!!

Thanks Sina. I would not want stealing anyone's Thunder. I am excited to spend time with the whole team and meet Nancy. It is important to see the home turf and kick the tires. I look forward to getting together with in NY at your convenience. Just let me know when.

In the meantime, on a personal level, I understand the ask forgiveness and not permission strategy. It is a hard one to swallow as an investor knowing what I know, but the labels have been so horrible and naïve that I think it is the only thing that makes sense. I also think that when the labels finally settle with Spotify (and I hear they are close), that will make your life better as well.

As for financing, while Greycroft maybe not be a good fit at that time (although you never know), maybe we get something in the end. Worst case is I come and help build the whole thing!

Drew

Andrew B. Lipsher
Partner
Greycroft, LLC
601 Lexington Avenue, 53rd Floor
New York, New York 10022

212-419-2444 (office)
917-455-5261 (mobile)
lipsher@greycroftpartners.com

From: Sina Simantob [mailto:sina@highlandcityclub.com]
Sent: Tuesday, April 27, 2010 12:12 AM
To: Drew Lipsher
Subject: RE: Long time no talk!!

I can make it to Gainesville next week but I know that Sam is really excited about having you there all to himself. Then there is Nancy who wants to meet with you and talk shop re Groovespark, Spyderlynk and more. So if I show up I'll steal his thunder. Sam and Josh have gotten a lot done recently so they want to show off a bit and get your advice and stamp of approval that they are on the right track.

Briefly, we bet the company on the fact that it is easier to ask for forgiveness than it is to ask for permission. When EMI sued, everyone thought it is the end of the company. Once we settled that suit everyone said EMI was weak anyway so the real Goliath to beat is UMG. Well it took the boys a bit before they could re-group but I think these guys have a real chance to settle with UMG within a year and by that time they'll be up to 35m uniques and a force to be dealt with.

Personally I rather hook up with you in NY one-on-one, meanwhile, I really appreciate your taking the time to visit them in their own humble home turf and I know that they will remember all your help after they settle with UMG and go out to get the big C round that I know you are interested in.

8/11/2010

EXHIBIT D

(December 3, 2009 S. Simantob e-mail)

From: Jia Gottlieb [jia@stillmountain.com]
Sent: Thursday, December 03, 2009 5:17 PM
To: Sina Simantob
Subject: Re: Groovespark in 1 Year

Sina,

Sina,

This is EXCITING. Staying in the saddle as you dodge the bullets and jump the fences will make for a thrilling ride. If possible I'd love to be a fly on the wall at your Dec. 18 meeting.

Jia

On Tue, Dec 1, 2009 at 8:16 PM, Sina Simantob <sina@highlandcityclub.com> wrote:

Josh, you may have missed your call as a writer. This is an excellent review.

The only thing that I want to add is this: we are achieving all this growth without paying a dime to any of the labels.

My favorite story related to our case is the story of a kid who appears in front of the judge for sentencing for the crime of having murdered both his parents, saying "judge, have mercy on me cuz I am an orphan."

In our case, we use the label's songs till we get a 100m uniques, by which time we can tell the labels who is listening to their music where, and then turn around and charge them for the very data we got from them, ensuring that what we pay them in total for streaming is less than what they pay us for data mining.

Let's keep this quite for as long as we can.

Alex, we still need you to do the report outlining all of our recent data like last month's \$135K revenue, deals in progress, the Inverness deal closed, etc. But we no longer need this report for our investors cuz the \$3m Bridge round is done, as much as we need it for the internal team and the December 18 Board meeting in Boulder.

On the Label front, Merlin has their full contract and we are waiting for their final feedback, but I'd say that's 90% done. Sony is coming along well with our next meeting scheduled for Monday. We have got Warner's feedback and it ain't pretty, but neither is their financial condition so this may turn out to be another long-and-hard fight. We have opened a channel to Universal but it is too early to say where they stand.

Great teamwork. Now lets kick some serious ass.

Sina

REDACTED

EXHIBIT E

(September 20, 2011 Marshall Custer e-mail)

From: **Marshall Custer** <marshall@grooves shark.com>
Date: Tue, Sep 20, 2011 at 8:58 PM
Subject: Re: Yesh Music
To: Richard Fabiani <rfabiani@fabianihopelaw.com>

Hi Rick,

I had Aaron go through his archive messages (stored on our server) and found the same messages you have with one addition, a message from Yesh on 12/23/11 with the signed agreement (Yesh Executed) that indicates a reply from Aaron - however, our server doesn't have record of reply. I have asked Aaron what he remembers of the agreement and he assures me he would have sent the fully executed agreement, or had our file secretary send it.

That said, Aaron cannot produce to me the email where he sent the agreement back - unfortunately there are a large number of emails missing from our live server during this time period (Dec '10 through Apr '11) due to ongoing email problems the company was having. As I see it there are pretty much two possibilities:

- 1: We messed up and did not get a properly executed copy to you.
- 2: We got a copy emailed out and our server failed to deliver - this would explain the "replied" demarkation and no found message.

Either way, I'm willing to accept that your client didn't receive the final copy, or else they would not have sent emails you provided below. I apologize for that, it isn't the way we like to run things around here. On the other hand, it also seems clear through Aaron's responses that he was a little confused by the February removal request - thinking that the agreement was in place. With the above in mind, I ran a very rough calculation to see what the top end would be for revenues that would have been accounted to the American Dollar Band under the agreement.

The reason for a rough calculation as opposed to our is because our standard reporting process is too complicated and burdensome to run a full accounting at this time. Further, reporting dev time is booked with major label functions until the Q3 Indie reports run.

For the rough calc, I had a tech do a search for all plays matching American Dollar Band metadata, pulled the total number of streams and total ad revs from 1/1/11 - 6/30/11. Using these numbers, which would yield a slightly inflated royalty amount, I calculated a pro-rata share using the 70% rate from the Agreement. The result is ~\$59.

The slight inflation would come from using only the high royalty rev share (70%) and a larger Yesh stream number than would be found in Q1 and Q2 as opposed to all time plays. This does however explain why your client would not have seen a reporting, since the \$100 floor would not have been triggered. Finally, a reporting could not have been sent because your client did not include any contact information in the agreement (thankfully an oversight we don't see much of anymore now that I oversee the license process).

That leaves us with how to resolve this. Given that I think we could have handled this better back in Dec-Feb, I wouldn't mind sending out \$500 to cover Q1 and Q2 with the balance for the band to help cover your fees. I would need an affirmation that the band agrees the license in place. On the other hand, if you wish to proceed from the standpoint that the license was never accepted, let me know and we can go from there.

Hope all is well,

Marshall Custer
Grooves shark
VP of Legal Affairs